

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
AMERICAN BROADCASTING COMPANIES, :
INC., DISNEY ENTERPRISES, INC., CBS :
BROADCASTING INC., CBS STUDIOS INC., :
NBCUNIVERSAL MEDIA, LLC, NBC STUDIOS, :
LLC, UNIVERSAL NETWORK TELEVISION, LLC, :
TELEMUNDO NETWORK GROUP LLC, and :
WNJU-TV BROADCASTING LLC, Civil Action No. 12-CV-1540 (AJN)
:
Plaintiffs/Counterclaim Defendants, :
:
v. :
:
AEREO, INC. :
:
Defendant/Counterclaim Plaintiff. :
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WNET, THIRTEEN, FOX TELEVISION :
STATIONS, INC., TWENTIETH CENTURY :
FOX FILM CORPORATION, WPIX, INC., :
UNIVISION TELEVISION GROUP, INC., THE : Civil Action No. 12-CV-1543 (AJN)
UNIVISION NETWORK LIMITED :
PARTNERSHIP, and PUBLIC BROADCASTING :
SERVICE, :
:
Plaintiffs/Counterclaim Defendants, :
:
v. :
:
AEREO, INC. :
:
Defendant/Counterclaim Plaintiff. :
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DECLARATION OF R. DAVID HOSP

Pursuant to 28 U.S.C. § 1746, R. David Hosp declares as follows:

1. I am a member of the Bar of the State of New York and am admitted to practice before this Court. I am a principal with the firm of Fish & Richardson P.C., One Marina Park

Drive, Boston, MA 02210, counsel for Defendant Aereo, Inc. (“Aereo”) in this case. I have personal knowledge of the matters below.

2. I submit this Declaration to place before the Court true and accurate copies of the documents and testimony identified in Aereo’s Statement of Undisputed Material Facts in Support of its Motion for Summary Judgment.

3. Attached hereto as Exhibit 1 is a true and correct copy of the Court’s decision in *Am. Broad. Cos., Inc. et al. v. Aereo, Inc.*, 874 F. Supp. 2d 373 (S.D.N.Y. 2012).

4. Attached hereto as Exhibit 2 is a true and correct copy of the Second Circuit’s decision in *WNET, Thirteen v. Aereo, Inc.*, Nos. 12-Civ-2786, 12-Civ-2807, 2013 WL 1285591, at *14 (2d Cir. Apr. 1, 2013).

5. Attached hereto as Exhibit 3 is a true and correct copy of the May 18, 2012 Declaration of Chaitanya Kanojia given in support of Aereo’s Oppositions to Plaintiffs’ Motions for Preliminary Injunction (previously attached as Exhibit 9 to that Opposition).

6. Attached hereto as Exhibit 4 is a true and correct copy of the May 18, 2012 Declaration of Joseph Lipowski given in support of Aereo’s Oppositions to Plaintiffs’ Motions for Preliminary Injunction (previously attached as Exhibit 10 to that Opposition).

7. Attached hereto as Exhibit 5 is a true and correct copy of the transcript of proceedings held May 30, 2012 before the Court concerning the Plaintiffs’ Motions for Preliminary Injunction.

8. Attached hereto as Exhibit 6 is a true and correct copy of the transcript of proceedings held May 31, 2012 before the Court concerning the Plaintiffs’ Motions for Preliminary Injunction.

9. Attached hereto as Exhibit 7 is a true and correct copy of a document titled “Aereo, Inc. System: A Brief Technical Description,” previously attached as Exhibit 11 to Aereo’s Oppositions to Plaintiffs’ Motions for Preliminary Injunction.

10. Attached hereto as Exhibit 8 is a true and correct copy of the April 17, 2012 Expert Report of Paul Horowitz on the Operation and Technology of Aereo Television, previously attached as Exhibit 1 to Aereo’s Oppositions to Plaintiffs’ Motions for Preliminary Injunction.

11. Attached hereto as Exhibit 9 is a true and correct copy of the transcript of the April 21, 2012 deposition of John P.J. Kelly.

12. Attached hereto as Exhibit 10 is a true and correct copy of the April 30, 2012 Declaration of John P.J. Kelly, previously attached as Exhibit 6 to Aereo’s Oppositions to Plaintiffs’ Motions for Preliminary Injunction

13. Attached hereto as Exhibit 11 is a true and correct copy of the May 18, 2012 Declaration of Paul Horowitz on the Operation and Technology of Aereo Television, previously attached as Exhibit 5 to Aereo’s Oppositions to Plaintiffs’ Motions for Preliminary Injunction.

14. Attached hereto as Exhibit 12 is a true and correct copy of a PowerPoint presentation titled “Testimony of Dr. Paul Horowitz,” previously attached as Exhibit 46 to Aereo’s Oppositions to Plaintiffs’ Motions for Preliminary Injunction.

15. Attached hereto as Exhibit 13 is a true and correct copy of the transcript of the May 12, 2012 deposition of John L. Volakis.

16. Attached hereto as Exhibit 14 is a true and correct copy of the May 17, 2012 Declaration of David M. Pozar, previously attached as Exhibit 7 to Aereo’s Oppositions to Plaintiffs’ Motions for Preliminary Injunction.

17. Attached hereto as Exhibit 15 is a true and correct copy of the Aereo Terms of Use, available at <https://aereo.com/terms> (last accessed May 9, 2013).

18. Attached hereto as Exhibit 16 is a true and correct copy of the Aereo FAQ, available at <http://support.aereo.com/> (last accessed May 14, 2013).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on May 14, 2013.

/s/ R. David Hosp
R. David Hosp

CERTIFICATE OF SERVICE

I hereby certify that on May 14, 2013, I caused the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.



Kathryn Lugo